

## CONSTITUTIONAL CONVENTION.

The Law-Makers Find Themselves  
Out of Work.

## THE FIRST READING IS FINISHED.

Very Little Further Business will be Transacted this Week, as the Amended Article has not been Printed.—Woman Suffrage Comes Up Again.

## Fifteenth Day.

TUESDAY, June 19, 1894.

The Convention was called to order at 10:35 A.M., President Dole in the chair. Prayer; roll call; minutes of preceding meeting read and approved. At 10:35 the Convention went into committee of the whole, Delegate Lyman in the chair, and proceeded to the consideration of Article 19, as recommended by the Judiciary Committee.

## ARTICLE 19—DENIZATION.

Letters of denization may be issued by the President, with the approval of the Cabinet, to any person eligible by the Constitution to become a citizen, excepting that the provision requiring previous residence in the Hawaiian Islands, intention to become a permanent resident of the Republic, citizenship of a country having express treaty stipulations with the Republic concerning naturalization, an oath abjuring allegiance to his native land and of allegiance to the Republic, and application to the Supreme Court shall not be required. Every person to whom such letters shall issue shall, however, take the oath prescribed in Article 100 of the Constitution, and shall thereupon become entitled to all the rights, privileges and immunities of a citizen.

Councillor Brown moved the committee recommend the rejection of Article 19 in the draft, and also the substitute article proposed by the Judiciary Committee. He did not believe in placing it in the power of four or five men to manufacture voters. Those who wished to vote should be citizens, either by birth or naturalization. It was not fair to grant privileges to one which were refused to another. It would be a matter of favoritism.

Delegate Carter moved the adoption of the Judiciary Committee's report. Councillor Emmelhuth asked for information on the purpose of this provision regarding denization.

Minister Smith said it was nothing new. There had always been good reasons for the provision. There were cases when it was very desirable to make persons denizens who could not be naturalized. The power to naturalize was greatly restricted in this Constitution, and while they were waiting for the negotiation of naturalization treaties it might be very important to have this power. A person could not even practice law unless he was a citizen or denizen. The power was more restricted and guarded than it had ever been before.

Minister Damon said the right of the Government to grant letters of denizenship had been recognized ever since the Government was established; so far as he knew, that right had never been abused. Such a right was very much needed here, and if the Executive was to be trusted at all, it should be trusted now.

President Dole said the article reported made one addition to the present law in requiring the oath to be taken, and that was a good thing. But it granted the right to vote, and that was a bad and dangerous thing. He would move to amend by adding at the end of the article the words "except the right to vote." As an illustration of the necessity of denizenship, he would cite the case of Prof. Koebele, of whose services the Government would be deprived if he could not be made a denizen. So, if the Government should seek a military officer abroad. It was not necessary, however, to grant the right to vote, and granting it might be a prolific source of injustice.

Councillor McCandless held that it would work injustice unless the right to vote were granted. They were required to take this oath, and should vote.

Councillor Tenney said the article could be abused because it gave such an opportunity to manufacture voters. With a corrupt executive it would be so used, and would place the Government in the hands of the corruptists every time. It seemed to him a very dangerous thing, and he hoped President Dole's amendment would pass.

Delegate Baldwin favored the article as recommended by the committee. No doubt there were arguments on both sides. It would be a way to get good citizens. There were royalists now on the fence who would come in. (Councillor Brown: Let them sit there then). Of course, any system would let in bad voters as well as good. Under the Constitution of 1887 persons who took the oath before the registration boards were allowed to vote. There were many respectable residents whose aid would be valuable who had not yet taken the oath. As the privilege was guarded, he did not see why it should be stricken out.

Councillor Emmelhuth believed in denizenship in particular cases, like that of a specialist who had to be brought from abroad, but he did not believe in such extensive privileges as were granted in this article, even with President Dole's amendment. It would be inviting the defeat of annexation. As Mr. Vivas said yesterday, he would sooner fight than see that done.

Delegate Carter was in favor of the article as reported by the committee. The candidate would have to be able to read, write and speak English, explain the Constitution, be of good moral character and not a refugee from justice, have some regular employment, and be possessed of \$200 worth of property in the Republic.

He believed that persons who satisfied all these conditions should have the right to vote.

Councillor Brown hoped the article would pass with the President's amendment.

Delegate Ables said that unless this article passed, he himself would not have been able to vote, if it had not been for his coming in under the special certificate. He was willing to do anything reasonable, but he was not willing to forswear his allegiance to the United States, and hundreds of others were in the same case.

Minister Damon said the opposition to this article was simply the old cry of Hawaii for the Hawaiians. We must do everything in our power to get settlers, and interest them in the country.

Minister Hatch said we could not get along without settlers of a good class. It had been objected that voters could be made without number, but why should they not be, if they were of a good class. Conditions here were not ideal by any means. Theories might be sound in the abstract which would not apply to our peculiar conditions with our mixed races. The natural and commendable sentiment which kept men from forswearing their native allegiance would exclude them from voting here, if this article did not pass. The bulk of immigration would be from the United States, and it would be perfectly safe to give every respectable man from there, who came here to settle, the rights of citizenship. Though there was a possibility of abuses it was not great enough to counterbalance the solid advantages of this proposition.

Minister Smith said there were often delays in making treaties, and as no one could be naturalized until treaties were obtained, it seemed all the more important to provide some outlet in this way. Councillor Brown withdrew his motion in favor of President Dole's amendment.

The ayes and noes were called for on President Dole's amendment which was adopted on the following division:

Ayes—Allen, Brown, Dole, Emmelhuth, Ena, Fernandes, Horner, Josepa, Kahaulelo, Kalua, Kauhane, Mendonca, Morgan, Nott, Pogue, Rice, Robertson, Tenney, Vivas, Waterhouse, A. S. Wilcox, Young—22.

Noes—Ables, Baldwin, Bolte, Carter, Damon, Hatch, King, Lyman, McCandless, D. B. Smith, W. O. Smith, G. N. Wilcox, Wilder—13. Absent—Hitchcock, Kuuniaka—2. The article as amended was then adopted.

The committee proceeded to the consideration of Article 91 as recommended by the Judiciary Committee.

ARTICLE 91—OFFICE HOLDERS. Section 1. All persons holding office under the Provisional Government of the Hawaiian Islands, at the date of the promulgation of this Constitution, shall continue to hold and exercise all the power to them granted until such office shall become vacant.

Section 2. All commissions issued by or under authority of the late monarchy, or of the Provisional Government of the Hawaiian Islands, are hereby declared to be vacated, null and void from and after the first day of September, A. D. 1894, unless canceled prior to that date.

Minister Smith moved to amend by changing "all persons" to "every person." Lost.

The article passed as recommended by the committee.

Article 94, as recommended by the Judiciary Committee was then taken up.

ARTICLE 94—MAJORITY RULE.

The approval, concurrence, consent, advice, agreement or action of the Legislature or either house thereof, or of the Executive Council or any Board of Registration or other public board, shall not for its validity require the assent of more than a majority, unless otherwise herein required; but in respect of the Executive Council such majority shall be required to include the President.

The words "Council of State" were added and the article passed.

At 11:30, the committee took a recess until 1:30.

AFTERNOON SESSION.

The committee met again at 1:30. Recommended by the Judiciary Committee.

ARTICLE 95—NO PUBLIC AID TO SECTARIAN OR PRIVATE SCHOOLS.

From and after December 31, A. D. 1895, no public money shall be appropriated nor public land conveyed to or for the support or benefit of any sectarian, denominational or private school, nor any school not under the exclusive control of the Government.

Minister Damon moved the adoption of the article. If it was passed it would remove one of the most serious causes of discontent in the country. It was the best course to make a stand and make it bravely on this point.

Minister Smith believed in the principle that the Government should have supervision over all schools helped. But he did not think it necessary for the Government to have exclusive control. He did not believe that help should be given sectarian institutions. He offered as an amendment that all after the words "private school" in the fourth line, be stricken out, substituting the words "not under the supervision or control of the Government." There are several schools that are doing a splendid work and should be helped. A little aid in this way goes a long distance. It is impossible for the Government to carry on schools of this class, now, and he did not believe it would be able to in the future. He did not think such a provision was just.

Delegate Kahaulelo was in favor of the committee's report.

Councillor McCandless hoped the report would be adopted.

Delegate Carter said he had been at some pains to find out what schools would be affected by this article, and found that there were five. The first was Kawaiahae Seminary. Even if this was closed up, the work would be taken up by the Kamehameha Girls School. The second was the Makawao Seminary. This was one of the best and has done splendid work, and he would be glad to see it under the control of the Board of Education. The third was at Kohala, and could be greatly improved and enlarged if

taken in hand by the board. There is no girls school on Kauai. The Hilo Boarding School for Boys is another that will be affected, as it would lose about \$400, but that is an insignificant amount compared with its expense. The Kauai Industrial school is the last one. It will be much better to take Government assistance away from these schools, and be trusted that the report would receive the warm support of the Convention.

Minister Damon thought the adoption of this article would be the brightest star in the sky of the Convention. The men who are back of these schools will not allow these schools to close. If they do, all the Protestant Churches should close their doors.

Minister Smith said this would be the darkest star instead of the brightest. All these schools will have to close their doors. This country is not big and will not for many years be able to carry on such schools. If the Government was in a position to carry on these schools, all right; but it is not. It will be a dark day for Hawaii when these schools are wiped out, as they will be if this article is adopted.

Delegate Ables believed the new Government would meet this emergency. The sooner we started in to establish a system of public schools in this country the better.

Minister Smith's amendment was lost.

The article passed as recommended by the committee.

## ARTICLE 101.

Section 1. The President and all civil officers of the Republic shall be liable to removal from office by impeachment upon any of the following grounds, namely: Any act or negligence involving moral turpitude punishable by law as an offense and committed while in office, incapacity for the due performance of official duty, maladministration in office, and assessment of office-holders for partisan political expenses or being accessory thereto.

Councillor Waterhouse moved to amend by adding the words, "Provided, however, that nothing herein contained shall prevent the prerogative removal from office of any person who is disloyal to the Republic, or is opposed to its avowed object and purposes, or who favors in any way either by word or deed the restoration or establishment of monarchical government in the Hawaiian Islands."

Councillor Emmelhuth wanted to know who was the father of this article?

President Dole said this article was prepared by himself, and Minister Smith adopted it as the report of the Judiciary Committee. The amendment of Councillor Waterhouse was very patriotic, but unnecessary, and rather obtrusive in that place.

Councillor Wilder asked what was meant by the last clause. He believed that the party expenses should be partly paid by the office-holders.

President Dole said that it was meant to prevent the President or any head of Department from covering a man by fear of dismissal, into paying a certain amount towards such expenses.

Councillor Wilder said he had no objection to such a construction of the clause.

Delegate Carter moved to amend by striking out all after the words, "maladministration in office" in line 6. The sentence was just vague enough to cause misunderstandings.

Minister Smith said there was no chance for error in the meaning. It simply meant that the superior officers should not assess their subordinates.

Delegate Ables thought that the wording of the article might be much better, and he thought that the Judiciary Committee could prepare a better worded section.

Delegate Carter thought that such a clause should be worded in a most precise and careful way. If not, it left a chance for a hostile legislature to impeach the best president Hawaii could have.

Councillor McCandless moved to take the ayes and noes on Councillor Waterhouse's amendment.

Minister Smith moved to amend the amendment by striking out all words that referred to the monarchy.

Delegate Carter's motion was lost on the following aye and no vote:

Ayes—Ables, Allen, Carter, McCandless, Robertson, Wilcox, (G. N.) Wilder—7.

Noes—Brown, Damon, Dole, Emmelhuth, Ena, Hatch, Horner, Josepa, Kahaulelo, Kalua, Kauhane, King, Lyman, Mendonca, Morgan, Nott, Pogue, Rice, Smith (D. B.), Smith (W. O.), Tenney, Vivas, Waterhouse, Wilcox (A. S.), Young—25.

Delegate Carter moved that the amendment as offered be referred to the Committee on Legislation.

Carried.

President Dole moved that, in the sixth line, the word "and" be changed to "or."

Delegate Ables moved to strike out the words "or being accessory thereto." Carried.

The section as amended was referred to the Legislative Committee.

Recommended by the Legislative Committee.

ARTICLE 12—EMINENT DOMAIN.

Private property may be taken for public use, and may be used by others than the owners thereof for railways, drains, dunes, water pipes and ditches for agricultural, mining, domestic or sanitary purposes; but only upon due process of law and just compensation.

Public use shall include such purposes as shall be required or designated by treaty stipulations between the Republic of Hawaii and any other nation.

Minister Smith moved to amend by striking out the words "and may be used" and substituting the words "and rights of ways may be obtained across the lands." Carried.

Councillor McCandless moved that after the word "agricultural" the word "manufacturing" be inserted.

President Dole offered an amendment to Councillor McCandless' amendment, by adding the words "electric lighting, electric power, telegraphic and telephonic."

Minister Smith did not see where the public benefit came in if a private telephone crossed another man's land.

Councillor Emmelhuth said that he was glad the Attorney General had at last acknowledged that the few had any rights that many must respect. He was against giving so many rights to private parties or corporations.

He moved to refer to the Legislative Committee.

Lost.

Delegate Robertson moved to strike out President Dole's amendment.

Carried.

Councillor McCandless' amendment was carried.

Councillor Emmelhuth moved to strike out the second paragraph.

Lost.

The Article passed as amended.

Delegate Kalua moved to reconsider the vote taken on Article 19, referring to denization. It might be two years before treaties were completed, and it was not right to deny a vote to the citizens or subjects of these powers, who might have letters of denization. He was ruled out of order.

Recommended by Legislative Committee.

ARTICLE 90.—EXISTING STATUTES AND OFFENSES.

Section 2. Statutes heretofore enacted, which are not inconsistent herewith, which refer to the King, or the Government or the Kingdom, or to the Provisional Government, shall be construed and refer to the President or to the Republic or Government of the Republic of Hawaii, as the case may be.

All acts which, by statute in force at the time when this Constitution takes effect, have heretofore been defined as offenses against the King, or the Provisional Government, or otherwise, shall be deemed to be offenses against the Republic or Government of Hawaii, unless such statute shall be inconsistent herewith, or shall be repealed or changed by law.

Acts heretofore committed, which were prohibited by statutes existing at the time such acts were committed shall be punishable under said statutes, the same being construed as above provided.

Minister Smith moved that the above section be adopted. Carried.

Section 4. All criminal and penal proceedings arising or now depending within the limits of the Hawaiian Islands shall be prosecuted to final judgment and execution in the name of the Republic of Hawaii; and all causes of action arising to individuals or corporations and all acts in law and suits at equity now pending in the several courts within the limits of the Hawaiian Islands not already barred by law may be commenced or carried on to final judgment and execution in the corresponding courts of the Republic.

The style of all processes shall be "The Republic of Hawaii," and all prosecutions shall be carried on in the name and by the authority of the Republic of Hawaii.

Nothing in this Constitution contained shall be the basis or ground for a writ of error or habeas corpus or certiorari or prohibition or quo warrant nor an appeal in any pending judicial proceeding, and all process heretofore issued or which may be issued prior to the day when this Constitution shall go into effect shall be as valid as if issued in the name of the Republic of Hawaii, but such writs or appeals shall lie in respect of all judgments, decrees, orders, or other proceedings heretofore made or had or pending in the several courts of the Hawaiian Islands, in conformity with the laws in force when such writs, decrees, orders or other proceedings were made or were pending.

Adopted as Section 3 of Article 90. Minister Smith moved that Articles 57 and 58, action on which had been deferred, be taken up for consideration. Carried.

THE HOUSE OF REPRESENTATIVES.

ARTICLE 57—NUMBER OF REPRESENTATIVES.—REPRESENTATIVE DISTRICTS.

Section 1. The House of Representatives shall be composed of fifteen members, elected, except as herein provided, every second year.

Passed as in the draft.

TERM OF OFFICE.

Section 2. The term of office of the Representatives elected at the first election held under this Constitution, (or who may hereafter be elected), at general or special elections, shall be until the next general election held thereafter.

Minister Hatch thought this should be amended so as to conform with the corresponding section on Senators. He moved to amend by making the first term extend to the first Wednesday of September, 1897.

President Dole thought it should be the last Wednesday in September instead of the first.

Minister Hatch accepted the amendment and it passed.

The section passed as amended.

Section 3. Vacancies caused by death, resignation or otherwise, shall be filled at special elections, for the unexpired term.

Passed as in the draft.

Section 4. For the purpose of representation in the House of Representatives, until otherwise provided by law, the Republic is divided into the following representative districts, viz:

First District: That portion of the Island of Hawaii known as Puna, Hilo and Hamakua.

Second District: That portion of the Island of Hawaii known as Kau, Kona and Kohala.

Third District: The Islands of Maui, Molokai, Lanai and Kahoolawe.

Fourth District: That portion of the Island of Oahu lying east and south of Nuuanu street, and a line drawn in extension thereof from the Nuuanu Fall to Mokapu Point.

Fifth District: That portion of the Island of Oahu lying west and north of the fourth district.

Sixth District: The Islands of Kauai and Niihau.

Passed as in the draft.

Section 5. The electors in the said districts shall be entitled to elect Representatives as follows:

In the First District, two.

In the Second District, two.

In the Third District, three.

In the Fourth District, three.

In the Fifth District, three.

In the Sixth District, two.

Passed as in the draft.

ARTICLE 58—QUALIFICATIONS OF REPRESENTATIVES.

In order to be eligible to be a member of the House of Representatives, a person shall, at the time of election:

Have attained the age of twenty-five years.

Be a male citizen of the Republic.

Be able understandingly to read,

write and speak the English or Hawaiian language.

Have resided in this country not less than three years:

And shall either own property in the Republic worth not less than One Thousand Dollars over and above all encumbrances, or have received a cash income of not less than Six Hundred Dollars during the twelve months immediately preceding the date of election.

Delegate Vivas moved to make the necessary residence five years instead of three.

President Dole thought the term too long. A man could certainly become posted in regard to the needs of the country in three years.

Councillor McCandless did not like the idea of making the term of residence so long.

The motion was carried.

Councillor Brown moved to make the income qualification \$300 instead of \$600 a year.

Lost.

The Article passed as amended.

The Committee rose and reported progress and asked leave to sit again.

Delegate Kalua moved to reconsider the report of the committee as far as Article 19 was concerned. Carried.

Minister Smith moved to amend the report of the committee by recommending the reconsideration of Article 19, and with that amendment the report be adopted.

Delegate Kalua moved to amend Article 19 by striking out the amendment depriving denizens of a vote.

Councillor Brown moved to take up the matter today. Carried.

Councillor Wilder gave notice that the Special Committee on Woman Suffrage would meet at 2 o'clock this afternoon, and he extended a cordial invitation to all interested, especially women, to attend and give expression to their views.

Minister Smith moved that a committee of revision be appointed to collect and arrange all amendments, and to have the Constitution printed as it now is. Carried.

The following committee was appointed: Councillor Brown and Delegates Horner and Carter.

The Convention adjourned until 10 o'clock this morning.

## Sixteenth Day.

WEDNESDAY, June 20, 1894.

The Convention was called to order at 10:05 A.M. President Dole in the chair. Prayer and roll call. Minutes of preceding day read and approved.

## REPORTS.

Minister Smith reported for the Legislative Committee on Councillor Waterhouse's proposed amendment to Article 101, relating to impeachment. The committee recommended the amendment be tabled as it is out of place in this article, which refers to impeachment and not to the power of the executive to remove subordinates.

Delegate Kalua moved the report be tabled for consideration in Committee of the Whole.

Councillor Waterhouse held that a proper committee meeting had not been held on the subject.

Councillor Brown said he was entitled to his opinion, and did not propose to change it to suit the Convention or any other body in the country.

Delegate Kalua's motion was carried.

Minister Smith said he had another report signed by Councillor Brown and himself. He had been unable to get the other members of the committee together though they had full notice. The committee recommended reconsideration of Section 7, Article 77, and offer a substitute section. The change is made necessary to conform to changes in other parts of the Constitution.

Delegate Kalua held that the report was entirely out of order, but was a pure piece of assumption on the part of the committee. Nothing had been referred to them. The duty of standing committees was to consider matters referred to them, and not to make independent reports on their own account.

Minister Smith said it was not a regular report but a simple recommendation.

Delegate Baldwin agreed with Delegate Kalua. He moved that the report be returned to them.

President Dole held that standing committees had the same right as private members to recommend matters to the attention of the house.

Minister Smith asked leave to withdraw the report.

Under suspension of the rules Minister Smith moved reconsideration of the section in question.

Carried.

The substitute section was read and adopted. It is as follows:

Section 7. No name shall be placed upon the register of voters for either Senators or Representatives except upon the personal appearance of the applicant before the Board of Registration at an advertised public meeting of the board.

Councillor McCandless moved to amend article 19, which provides that the national census should not be changed, by adding the words, "except by act of the Legislature." Not seconded.

ORDER OF THE DAY.

Consideration of Article 19 relating to Denizens. The article was reconsidered the day before, and made the order of the day for Wednesday.

Delegate Carter moved to except from the rights of citizens granted to denizens, not the right to vote, but the right to hold the offices of President, Cabinet Ministers, Foreign Ministers, Auditor General, Judges of the Supreme Court or Circuit Courts.

Delegate Kalua held that the amendment was unnecessary, so far as the Presidential office was concerned, because the qualifications for this office were already defined.

Delegate Vivas favored the amendment, except as to the right to vote. He did not think denizens should vote.

Councillor Allen did not approve of Mr. Carter's amendment. It was unnecessary.

Councillor Wilder said there was no question that Article 18 excluded everybody from naturalizing. If denizens could not vote, then we were building a wall around ourselves. We would be shutting out our supporters, and